

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RAMON SAUL SILVA,

Plaintiff,

v.

TROY BACON,

Defendant.

CASE NO. C19-0764-JCC

ORDER

This matter comes before the Court on Plaintiff's objections (Dkt. No. 5) to the report and recommendation ("R&R") (Dkt. No. 4) of the Honorable Brian A. Tsuchida, United States Magistrate Judge. Having thoroughly considered the parties' briefing and the relevant record, the Court hereby OVERRULES Plaintiff's objections, ADOPTS Judge Tsuchida's R&R, and DISMISSES Plaintiff's complaint for the reasons explained herein.

**I. BACKGROUND**

Plaintiff is currently confined in King County Correction Facility – Seattle. (Dkt. No. 1 at 1.) While incarcerated in 2018, Plaintiff founded the "Keepers of the Light" religion, which he now practices. (Dkt. No. 4 at 2.) Plaintiff alleges that his religion mandates, among other things, using marijuana four times a day, wearing religious head coverings, and consuming animal meat off the bone three times a day. (*See* Dkt. No. 1.) On April 25, 2019, Plaintiff filed a lawsuit in the Western District of Washington against King County Correctional Officers Troy Bacon, Garrett

1 Ferreiro, Dale Porter, and Todd Clarin. *See Silva v. Bacon*, Case No. C19-0619-RAJ, Dkt. No. 1  
2 at 1 (W.D. Wash. 2019). In that suit, Plaintiff alleges that the defendants violated his First and  
3 Fourteenth Amendment rights, and the Religious Land Use and Institutionalized Persons Act  
4 (“RLUIPA”), based on the defendants’ refusal to allow him to wear his religious head coverings.  
5 *Id.* Shortly thereafter, Plaintiff filed this lawsuit against Officer Bacon alone, again alleging  
6 violations of the First Amendment, Fourteenth Amendment, and RLUIPA, based on Defendant’s  
7 refusal to accommodate Plaintiff’s religious dietary restrictions. (*See* Dkt. No. 1.) Judge  
8 Tsuchida’s R&R recommends dismissing Plaintiff’s complaint in this case as duplicative of  
9 Plaintiff’s previous lawsuit. (Dkt. No. 4 at 1.) Plaintiff has filed objections to the R&R. (Dkt. No.  
10 5.)

## 11 **I. DISCUSSION**

### 12 **A. Standard of Review**

13 The Court reviews objections to a magistrate judge’s report and recommendation *de*  
14 *novo*. 28 U.S.C. § 636(b)(1). The Court “may accept, reject, or modify, in whole or in part, the  
15 findings or recommendations made by the magistrate judge.” *Id.*

### 16 **B. Duplicative Filings**

17 Plaintiffs generally have “no right to maintain two separate actions involving the same  
18 subject matter at the same time in the same court and against the same defendant.” *Adams v. Cal.*  
19 *Dep’t. of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007) (quoting *Walton v. Eaton Corp.*, 563  
20 F.2d 66, 70 (3d Cir. 1977)). “[A] suit is duplicative if the claims, parties, and available relief do  
21 not significantly differ between the two actions.” *Id.*

22 Plaintiff’s three legal claims in this lawsuit are identical to the legal claims in his  
23 previously-filed lawsuit. *Compare Silva*, Case No. C19-0619-RAJ, Dkt. No. 1 at 3, *with* (Dkt.  
24 No. 1 at 8–10). Defendant in this lawsuit, Officer Bacon, is also named as a defendant in the  
25 previously-filed lawsuit. *Compare Silva*, Case No. C19-0619-RAJ, Dkt. No. 1 at 2, *with* (Dkt.  
26 No. 1 at 1). Plaintiff’s claims for relief in this lawsuit are identical to the claims for relief

1 Plaintiff makes in the previously-filed lawsuit. *Compare Silva*, Case No. C19-0619-RAJ, Dkt.  
2 No. 1 at 15–16, *with* (Dkt. No. 1 at 9–10). Finally, both lawsuits arise out of the same allegation  
3 that members of the King County correctional staff are preventing Plaintiff from practicing his  
4 religion. *Compare Silva*, Case No. C19-0619-RAJ, Dkt. No. 1, *with* (Dkt. No. 1). Therefore,  
5 Judge Tsuchida’s R&R found this lawsuit duplicative of Plaintiff’s earlier-filed lawsuit and  
6 recommends dismissal on this ground.

7 Plaintiff does not dispute Judge Tsuchida’s finding that the filings are duplicative. (*See*  
8 Dkt. No. 5.) Rather, Plaintiff’s objections to Judge Tsuchida’s R&R assert that if this lawsuit is  
9 dismissed, Plaintiff will lose his copies of the exhibits attached to his complaint. (*Id.* at 1.)  
10 However, the Clerk has provided Plaintiff with a courtesy copy of his complaint and all attached  
11 exhibits filed in this case upon Plaintiff’s request. (Dkt. No. 8.) Moreover, Plaintiff’s objection is  
12 not relevant to the issue of whether this lawsuit is duplicative of his previously-filed action. *See*  
13 *Adams*, 487 F.3d at 688. Therefore, the Court FINDS this lawsuit is duplicative of Plaintiff’s  
14 previously-filed lawsuit.

## 15 **II. CONCLUSION**

16 For the foregoing reasons, the Court OVERRULES Plaintiff’s objections (Dkt. No. 5),  
17 ADOPTS Judge Tsuchida’s R&R (Dkt. No. 4), and DISMISSES Plaintiff’s complaint without  
18 prejudice.

19 DATED this 16th day of July 2019.

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23 John C. Coughenour  
24 UNITED STATES DISTRICT JUDGE  
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